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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,955	07/20/2001	Stephen F. Dull	12587-020001	2457

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EXAMINER

JEANTY, ROMAIN

ART UNIT PAPER NUMBER

3623

DATE MAILED: 09/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/909,955

Applicant(s)

DULL ET AL.

Examiner

Romain Jeanty

Art Unit

3623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 27 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-37.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: See Continuation Sheet

Continuation of 5.

Claim 1: Applicants asserted that the references fail to teach the claimed invention. Applicants further supported their assertion by arguing that the references taken alone or in combination fails to teach or suggest a "conjoint survey data". In response, the Examiner respectfully disagrees with applicants' assertion. According to page 9, second paragraph of applicants' specification, a conjoint analysis is based on adapting questions based on a consumer's response over time. This technique relies on "a series of dynamic comparison questions which enables a respondent participating in the conjoint survey to make tradeoffs among product or service attributes". This is a well-known teachings as stated on page 9 first paragraph of applicants' specification and is similar to the teachings provided by Frost. Frost teaches providing different types of surveys to customers using statistical means and wherein the surveys are presented in phases. Different attributes and variances are considered and consumers' responses and interviews are evaluated. Frost further teaches that new customers' preferences and new customers' purchase decisions will be made which is similar to tradeoff of products. Applicants are referred to column 4, lines 2-50; column 5, lines 30-68 and column 7, lines 24-54 of Frost. Thus, a conjoint survey data is interpreted in light of applicants' specification as referred above and has been demonstrated to be taught by Frost. Moreover, evidence of known conjoint analysis is taught by Judith Miller. Note page 2 of Judith Miller. It should be noted that Judith Miller has not been applied as a reference in the applied rejection but was referenced in the prior office action as Pertinent Prior Art, which denotes explicitly known teachings of a conjoint analysis.

Applicants further asserted that independent claims 8, 15 and dependent claims 9-14 and 16-21 should be allowable for the same reasons as claim 1. The Examiner respectfully disagrees with applicants' assertion because the combined references do teach the limitations of claims 8, 15 and dependent claims 9-14 and 16-21. Note response to arguments above.

Romain Jeanty
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